

AMENDED IN SENATE MAY 16, 2002

**Senate Concurrent Resolution**

**No. 81**

**Introduced by Senator Machado**

April 22, 2002

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Senate Concurrent Resolution No. 81—Relative to the Uniform Money Services Act.

LEGISLATIVE COUNSEL'S DIGEST

SCR 81, as amended, Machado. Uniform Money Services Act.

This measure would direct the California Law Revision Commission, with the assistance of the Department of Corporations and the Department of Financial Institutions, to conduct a study and make a recommendation to the Legislature by December 31, ~~2004~~ 2005, regarding the advisability of California consolidating and revising licensing laws relating to money transmission, sales and issuance of payment instruments, sales and issuance of traveler's checks, check cashing, and currency exchange into a single law similar to the Uniform Money Services Act proposed by the National Conference of Commissioners on Uniform State Laws.

Fiscal committee: yes.

- 1 WHEREAS, Under current law, businesses providing various
- 2 nonbank money services are regulated under at least four different
- 3 licensing laws that do not encompass the entire range of nonbank
- 4 money services businesses available in the expanding
- 5 marketplace; and
- 6 WHEREAS, The four licensing laws for nonbank money
- 7 services, including the laws regulating transmitters of money
- 8 abroad (Chapter 14 (commencing with Section 1800) of Division

1 1 of the Financial Code), the Travelers Checks Act (Chapter 14A  
2 (commencing with Section 1850) of Division 1 of the Financial  
3 Code), the Check Sellers, Bill Payers and Proraters Law (Division  
4 3 (commencing with Section 12000) of the Financial Code), and  
5 the Payment Instruments Law (Division 16 (commencing with  
6 Section 33000) of the Financial Code), are administered by two  
7 separate regulatory agencies, the Department of Corporations and  
8 the Department of Financial Institutions, in addition, check  
9 cashers are licensed and regulated (Title 1.6F (commencing with  
10 Section 1789.30 of Part 4 of Division 3 of the Civil Code) and  
11 currency exchangers are also regulated (Chapter 21.5  
12 (commencing with Section 22515) of Division 8 of the Business  
13 and Professions Code); and

14 WHEREAS, The fundamental activities of these nonbank  
15 money services businesses all involve fiduciary responsibility  
16 over the receipt of money on behalf of individuals and businesses;  
17 and

18 WHEREAS, The different licensing and regulatory laws do not  
19 have consistent licensing and regulatory approaches, including  
20 safety and soundness, reporting, examination, and enforcement  
21 provisions; and

22 WHEREAS, These licensing and regulatory laws may be  
23 viewed as antiquated in their jurisdictional boundaries, both in  
24 terms of activities regulated and in terms of the licensing of  
25 physical locations in the State of California, and the laws have gaps  
26 in regulatory scope; and

27 WHEREAS, In recent years new nonbank businesses have  
28 emerged using new technologies such as stored value and the  
29 Internet to perform money services transactions that may not come  
30 within the definitions under the current nonbank money services  
31 laws, including allowing an individual to send money, paying bills  
32 on behalf of an individual, or facilitating electronic purchases; and

33 WHEREAS, The lack of regulatory oversight over new high  
34 technology funds transfer businesses may pose a risk of loss to  
35 persons who entrust their money to businesses not falling within  
36 the regulatory jurisdiction of the existing licensing laws; and

37 WHEREAS, Businesses subject to the jurisdiction of the current  
38 licensing and regulatory laws are disadvantaged by new  
39 businesses providing nonbank money services that may fall  
40 outside the jurisdiction of the existing laws; and



1 WHEREAS, Many states have adopted licensing and regulatory  
2 laws that consolidate money transmission (including Internet  
3 funds transmission) and sales and issuance of payment instruments  
4 (including stored value products) in one statute, thereby allowing  
5 the regulatory agency to issue one license for diverse functions;  
6 and

7 WHEREAS, The Money Transmitter Regulators Association  
8 has approved and recommended a model legislative outline that  
9 has formed the basis for legislation enacted in several states and  
10 that provides a template for the essential elements to be included  
11 in a unitary licensing law; and

12 WHEREAS, The National Conference of Commissioners on  
13 Uniform State Laws has also approved and recommended for  
14 enactment in all states the Uniform Money Services Act; and

15 WHEREAS, The Uniform Money Services Act sets forth a  
16 comprehensive regulatory scheme for nonbank entities engaging  
17 in the following types of financial activities: money transmission,  
18 such as wire transfers, that include Internet payment mechanisms,  
19 such as online bill payment services, Internet funds transfer  
20 services, and similar types of services; the sale of payment  
21 instruments, such as money orders, traveler's checks, and stored  
22 value; check cashing; and foreign currency exchange; and

23 WHEREAS, There has been an increased interest in the  
24 adequacy of the consumer protections provided by the exemption  
25 for certain consumer credit counselors under the Check Sellers,  
26 Bill Payers and Proraters Law; and

27 WHEREAS, There has been a recent increased focus on the  
28 adequacy of the consumer protections provided under the laws  
29 regulating transmitters of money abroad; and

30 WHEREAS, Many entities are licensed under one or more of  
31 the existing laws regulating nonbank money services, thereby  
32 increasing the compliance costs for the regulated entities, as well  
33 as the costs imposed on the state agencies entrusted with the  
34 responsibility of administering these licensing laws; and

35 WHEREAS, Different regulatory standards apply to check  
36 cashers and currency exchange businesses on the one hand and  
37 money transmitters and traveler's checks and payment instrument  
38 issuers on the other; and

39 WHEREAS, The traditional marketplace for nonbank money  
40 services, individuals who lack an affiliation with a banking

1 institution, has expanded with the growth of money services  
2 businesses through the Internet and otherwise to add additional  
3 customers, while the existing licensing and regulatory laws  
4 applicable to money services businesses may have failed to evolve  
5 to recognize the new marketplace; now, therefore, be it

6 *Resolved by the Senate of the State of California, the Assembly*  
7 *thereof concurring*, That the California Law Revision  
8 Commission, with the assistance of the Department of  
9 Corporations and the Department of Financial Institutions, and  
10 with technical assistance from the regulated industry *consumer*  
11 *representative groups*, is hereby directed through existing  
12 resources to study and make a recommendation to the Legislature  
13 by December 31, ~~2004~~ 2005, regarding the following:

14 (1) Whether it is necessary and appropriate to consolidate the  
15 existing licensing laws regulating money transmission, sales and  
16 issuance of payment instruments, sales and issuance of traveler's  
17 checks, check cashing, and currency exchange businesses into a  
18 single law based upon the Uniform Money Services Act, the model  
19 legislation outline of the Money Transmitters Regulators  
20 Association, and whether additional provisions are necessary  
21 under any recodification to reflect the concerns articulated herein;

22 (2) Whether the licensing laws relating to the sale or issuance  
23 of traveler's checks, payment instruments, and funds transmission  
24 should be modified in any manner to deal with the emergence of  
25 new high technology funds transfer vehicles, such as Internet  
26 funds transmission and stored value products;

27 (3) Whether some or all of the existing licensing laws can be  
28 combined so that cost savings can be achieved for both the  
29 regulated entities and the appropriate regulator as a result of  
30 consolidated licensing procedures used in other states;

31 ~~(4) Set forth consumer protections for businesses offering~~  
32 ~~consumer credit counseling in addition to money services; and~~  
33 *Whether consumer protections in existing law relating to nonbank*  
34 *money services, including the business of consumer credit*  
35 *counseling, are sufficient in light of the rapidly changing*  
36 *businesses involved in money services and consumer credit*  
37 *counseling, and what further provisions may be appropriate to*  
38 *strengthen those consumer protections; and*

39 (5) Set forth any additional provisions deemed necessary and  
40 appropriate; and be it further

1     RESOLVED, *That the study the California Law Revision*  
2     *Commission is directed to conduct shall not prevent or delay any*  
3     *reform the Legislature may find necessary to correct problems in*  
4     *the subject of nonbank money services and transactions, as*  
5     *described, prior to completion of the study; and be it further*  
6     *Resolved,* That the Secretary of the Senate transmit copies of  
7     this resolution to the California Law Revision Commission, the  
8     Department of Corporations, and the Department of Financial  
9     Institutions.

